

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ANDY CIPRIAN,

Defendant.


S5 11-CR-1032-74 (PAE)  
16-CV-5082 (PAE)

2255 ORDER

PAUL A. ENGELMAYER, District Judge:

Defendant Andy Ciprian has moved for relief under 28 U.S.C. § 2255, arguing that the offense to which he pled guilty (Count 52 in S5 11-CR-1032 (PAE)) does not state a viable criminal offense in light of *United States v. Davis*, 139 S. Ct. 2310, 2336 (2019). Pursuant to a plea agreement with the Government, the Court today vacated Mr. Ciprian's conviction on Count 52, dismissed that count, accepted a guilty plea from Mr. Ciprian to Count Fifty-One of the same superseding indictment, and sentenced Mr. Ciprian based on his commission of the offense described in Count Fifty-One. Accordingly, Mr. Ciprian's motion for relief pursuant to § 2255 is moot, and the Court denies that motion as moot. The Clerk of Court is respectfully directed to terminate the motions pending at Dkt. No. 1 in 16-CV-5082 (PAE) and Dkt. No. 2002 in 11-CR-1032 (PAE) and to close case 16-CV-5082 (PAE).

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: January 31, 2020  
New York, New York